



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS TO REFRESH THE RECORD ON INTEROPERABLE VIDEO CONFERENCING SERVICES

CG Docket No. 10-213

Comments Due: [30 days after date of publication in the Federal Register]

Reply Comments Due: [60 days after date of publication in the Federal Register]

Through this Public Notice, the Consumer and Governmental Affairs Bureau (CGB) of the Federal Communications Commission (Commission) seeks to refresh the record in this docket on proposed rules to enable people with disabilities to access and use interoperable video conferencing services.¹ In particular, we invite the public to provide further comment on the kinds of services encompassed by the term “interoperable video conferencing service,” a type of advanced communications service (ACS) subject to section 716 of the Communications Act of 1934, as amended (the Act).²

Section 716, added to the Act by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA),³ requires that service providers and equipment manufacturers make advanced communications services and equipment accessible to and usable by people with disabilities, unless the requirements are not achievable.⁴ “Advanced communications services” are defined as:

- (1) Interconnected VoIP service;
- (2) Non-interconnected VoIP service;
- (3) Electronic messaging service; and
- (4) Interoperable video conferencing service.⁵

Each of these services, in turn, is also defined by the Act.⁶

¹ See *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket No. 10-213, WT Docket No. 96-198, CG Docket No. 10-145, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 14557, 14584-88, paras. 301-08 (2011) (*ACS Report and Order and ACS FNPRM*).

² 47 U.S.C. § 153(1)(D) (defining the term “advanced communications services” to include “interoperable video conferencing service”); *id.* § 617.

³ Pub. L. No. 111-260, 124 Stat. 2751 (2010) (CVAA); Pub. L. No. 111-265 (technical amendments to CVAA). See <https://www.fcc.gov/general/twenty-first-century-communications-and-video-accessibility-act-0>.

⁴ 47 U.S.C. § 617.

⁵ *Id.* § 153(1).

⁶ *Id.* § 153(19), (25), (27), (36).

In 2011, the Commission adopted rules implementing the CVAA. The Commission incorporated into its rules the statutory definitions of ACS and its four constituent services,⁷ including the statutory definition of “interoperable video conferencing service” as “a service that provides real-time video communications, including audio, to enable users to share information of the user’s choosing.”⁸ However, noting that a question was raised as to what Congress meant by including the word “interoperable” in the term “interoperable video conferencing service,”⁹ the Commission found that “the record is insufficient to determine how exactly to define ‘interoperable’” in this context.¹⁰ The Commission also found that the word “interoperable” did not indicate a Congressional intent to require that non-interoperable video conferencing services be made interoperable.¹¹

In an accompanying Further Notice of Proposed Rulemaking, the Commission invited further comment on the meaning of the term “interoperable” in the context of video conferencing services and equipment.¹² Based on the record at that time, the Commission invited comment on the following three alternative definitions of an “interoperable” service:

- (1) able to function inter-platform, inter-network, and inter-provider;
- (2) having published or otherwise agreed-upon standards that allow for manufacturers or service providers to develop products or services that operate with other equipment or services operating pursuant to the standards; or
- (3) able to connect users among different video conferencing services, including video relay service (VRS).¹³

The Commission also asked whether only one of these alternatives should be adopted, or whether they should all be encompassed in a single definition of “interoperable,” such that a video conferencing service would be deemed interoperable as long as any of the three alternative criteria is satisfied.¹⁴

In response to the *ACS FNPRM*, commenters did not reach a consensus on any of the three suggested alternatives. For example, some commenters argued that the first of the three suggested definitions was too narrow,¹⁵ while others argued that it was the only appropriate alternative.¹⁶ Stating

⁷ *ACS Report and Order*, 26 FCC Rcd at 14568-79, paras. 30-51; 47 CFR § 14.10(c), (i), (l), (m), (q).

⁸ 47 CFR § 14.10(m).

⁹ *ACS Report and Order*, 26 FCC Rcd at 14576, para. 46.

¹⁰ *Id.* at 14577, para. 47.

¹¹ *Id.* at 14577, para. 48 (“We also find that the inclusion of the word ‘interoperable’ does not suggest that Congress sought to *require* interoperability, as some commenters have suggested.”).

¹² *Id.* at 14684-88, paras. 301-307.

¹³ *Id.* at 14686, para. 303.

¹⁴ *Id.* at 14686, para. 304.

¹⁵ Rehabilitation Engineering Research Center on Telecommunications Access (RERC-TA) Comments at 4-5 (rec. Feb. 13, 2012) (RERC-TA Comments) (stating that it is virtually impossible for any service to be “inter-provider, internetwork, and inter-platform”); Consumer Groups and RERC-TA Reply Comments at 8-9 (rec. Mar. 14, 2012) (stating that “video teleconferencing systems . . . are not meant to interoperate directly with each other”) (emphasis in original).

¹⁶ Microsoft Corporation Comments at 5-8 (rec. Feb. 13, 2012); Voice on the Net Coalition Comments at 4 (rec. Feb. 13, 2012) (“The term ‘interoperable’ . . . should be defined as ‘able to engage across a wide range of platforms, network, and providers.’”); Consumer Electronics Association Comments at 12 (rec. Feb. 13, 2012) (urging the Commission to define “interoperable” as “the ability to operate among different platforms, networks, and providers without special effort or modification by the end user”).

that the definition did not apply to then-current services, some commenters argued that Congress could not have intended that no existing video conferencing services were covered by the statute.¹⁷ Others disagreed, while suggesting that video conferencing services might grow in the direction of interoperability.¹⁸ Some commenters supported a fourth alternative definition of “interoperable” that would apply to those video conferencing services capable of being used on different types of hardware and different types of operating systems.¹⁹ This rulemaking is pending.

Since the outbreak of COVID-19 in early 2020, employers, schools, and the general public have greatly increased their reliance on video conferencing as an essential communications tool.²⁰ Inaccessibility of video conferencing platforms is increasingly described as a serious barrier to effective communication by people with disabilities.²¹ In response to the Commission’s April 7, 2021 Public Notice, seeking comment on whether the Commission’s accessibility rules should be updated,²² the AARO, a broad-based coalition of disability advocacy and research groups, stated:

The communications accessibility problem most cited by members of the Advocacy Organizations since the beginning of the COVID-19 pandemic has been the inaccessibility of modern IP-based multimodal platforms that offer an array of video, audio, and text communications functionality.²³

¹⁷ American Council of the Blind and American Foundation for the Blind Reply Comments at 5 (rec. Mar. 14, 2012).

¹⁸ See, e.g., National Cable & Telecommunications Association Comments at 5 (rec. Feb. 13, 2012) (stating that there is “no persuasive evidence that Congress intended existing video conferencing services to be subject to section 716” and that Congress likely intended for section 716 to apply to a not-too-distant future when interoperable video conferencing would be available).

¹⁹ RERC-TA Comments at 6 (“If a video telecommunication system (including server and client software) will work with other companies hardware platforms (e.g. computers and browsers), it should be considered interoperable.”).

²⁰ See, e.g., Accessibility Advocacy and Research Organizations (AARO) Comments, GN Docket No. 21-140, at 5 (rec. June 7, 2021) (“Since the beginning of the pandemic, these platforms have become a ubiquitous mode of communications for work, healthcare, education, socializing, and more.”) (footnotes omitted); Ashley Mussallem, Tiffany L Panko, et al., *Making virtual health care accessible to the deaf community: Findings from the telehealth survey*, SAGE JOURNALS: JOURNAL OF TELEMEDICINE AND TELECare, (Mar. 29, 2022), <https://journals.sagepub.com/doi/10.1177/1357633X221074863>.

²¹ Some video conferencing providers have incorporated accessibility features into their services over the past two years. See, e.g., *Zoom is for Everyone*, ZOOM, <https://explore.zoom.us/en/accessibility/> (last visited Mar. 16, 2022); *BlueJeans Accessible Video Conferencing*, BLUEJEANS, <https://www.bluejeans.com/products/meetings/accessibility> (last visited Mar. 17, 2022). However, people who are deaf and hard of hearing still face obstacles. See Mark Ray, *Why Remote Work Can Be Hard For Hard-Of-Hearing People*, FORBES, (Sept. 2, 2021), <https://www.forbes.com/sites/nextavenue/2021/09/02/why-remote-work-can-be-hard-for-hard-of-hearing-people/?sh=76a3d4c46d71>; Michele Hurley, Au.D., *Video conferencing tips for people with hearing loss*, STARKEY, (Apr. 22, 2020), <https://www.starkey.com/blog/articles/2020/04/22/13/19/videoconferencing-with-hearing-loss#:~:text=When%20using%20video%20conferencing%20tools,garbled%20mess%20for%20the%20listener>.

²² *Consumer and Governmental Affairs, Media, And Wireless Telecommunications Bureaus Seek Update On Commission’s Fulfillment of The Twenty-First Century Communications And Video Accessibility Act*, GN Docket No. 21-140, Public Notice, 36 FCC Rcd 7108 (2021) (CVAA Refresh PN).

²³ AARO Comments, GN Docket No. 21-140, at 4 (rec. June 7, 2021). The AARO include Telecommunications for the Deaf and Hard of Hearing, Inc. (TDI), American Association of the DeafBlind (AADB), American Deafness and Rehabilitation Association (ADARA), Association of Late-Deafened Adults (ALDA), California Coalition of Agencies Serving the Deaf and Hard of Hearing (CCASDHH), Cerebral Palsy and Deaf Organization (CPADO), (continued....)

Noting that the issue of whether such platforms are covered by the CVAA as “interoperable video conferencing services” had been left unresolved by the Commission in 2011 and not revisited since, the AARO urged the Commission to complete this rulemaking and determine whether such platforms are subject to its accessibility rules.²⁴ In the alternative, the AARO requested the Commission to “swiftly request that Congress remove the term ‘interoperable’ from the definition of ACS in the Communications Act.”²⁵ Similar concerns were raised recently by AARO members in comments to help inform the 2022 report to Congress on communications accessibility.²⁶

In February 2022, the Disability Advisory Committee highlighted the issue of the accessibility of video conferencing platforms in recommending Commission action to facilitate interconnection of such platforms with telecommunications relay services (TRS).²⁷ The Committee states, in part:

[S]ome video conferencing platforms incorporate live closed captioning using automatic speech recognition (ASR). However, these solutions are not available for all platforms or on all video conferences for platforms that do provide them. . . . When ASR-based captions are available, they may be of insufficient quality Some platforms do not allow users to customize caption size, color, opacity, and other critical settings to ensure readability. And some platforms lack sufficient user control to ensure that interpreters and signers are properly displayed and can be properly pinned on users’ display.²⁸

In addition to recommending a number of TRS-specific measures, the Committee recommended that the Commission ensure, at a minimum, that video conferencing platforms “[i]nclude built-in closed

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Communications Service for the Deaf (CSD), Conference of Educational Administrators of Schools and Programs for the Deaf (CEASD), Cuesign, Inc., Deaf Seniors of America (DSA), Hearing Loss Association of America (HLAA), HEARD, National Association of the Deaf (NAD), National Black Deaf Advocates (NBD), National Cued Speech Association (NCSA), National Hispanic Latino Association of the Deaf (NHLAD), Northern Virginia Resource Center for Deaf and Hard of Hearing Persons (NVRC), Registry of Interpreters for the Deaf (RID), Rehabilitation Engineering Research Center on Technology for the Deaf and Hard of Hearing, Gallaudet University (DHH-RERC), Rehabilitation Engineering Research Center on Universal Interface & Information Technology Access (IT-RERC), Rehabilitation Engineering Research Center for Wireless Inclusive Technologies, Georgia Institute of Technology (Wireless RERC), and RIT/NTID Center on Access Technology (CAT).

²⁴ *Id.* at 11-14.

²⁵ *Id.* at 14.

²⁶ See TDI, AADB, ALDA, CAT, CSD, CEASD, DSA, HLAA, NAD, NVRC, RID, and DHH-RERC, Comments on Public Notice, CG Docket 10-213, at 8-11 (filed Apr. 4, 2022). According to this group of commenters, “[o]nce the pandemic forced a shift to remote working, many of the 13% of American adults who have hearing difficulties found themselves cut off from colleagues during calls on Zoom, Microsoft Teams, and other virtual platforms. Faces on the screen are often too small for lipreading, and a lack of captions can make meaningful interaction impossible.” *Id.* at 8-9. They add that even where automatic captions are provided, the quality and timeliness of the transcription can vary widely.” *Id.* at 9-10.

²⁷ Recommendation of the Federal Communications Commission (FCC) Disability Advisory Committee (DAC) on Telecommunications Relay Service (TRS) Use on Video Conferencing Platforms (DAC TRS Recommendation), <https://www.fcc.gov/file/22912/download> (Feb. 2022); see also Recommendation of the Federal Communications Commission (FCC) Disability Advisory Committee on Concerns and Lessons Learned Regarding Communication Access for People with Disabilities During the Pandemic at 4-5, <https://www.fcc.gov/file/21920/download> (Sept. 2021) (discussing video conferencing).

²⁸ DAC TRS Recommendation at 2-3.

captioning functionality that is available to all users,” and “[a]llow users . . . to control the activation and customize the appearance of captions and video.”²⁹

By this Public Notice, we invite the public to file additional comments on the questions posed in the *ACS FNPRM* regarding the meaning of the term “interoperable” in the context of video conferencing services and equipment. In response to the *CVAA Refresh PN*, the Commission received several comments that briefly addressed the issue of how to define “interoperable video conferencing.” For example, CTIA states that standards groups are best suited to define interoperability standards.³⁰ The AARO urge the Commission to resolve the definitional issue by “simply clarify[ing] that the statutory definition of ‘interoperable video conferencing service,’ as a ‘service that uses real-time video communications, including audio, to enable users to share information of the user’s choosing,’ is an exhaustive articulation of what Congress intended to be covered.”³¹ We now invite commenters to submit additional relevant information about what types of services are currently available in the video conferencing marketplace, the kinds of interoperability they currently offer, and how such developments may assist in reaching an interpretation of “interoperable” that is consistent with the intent of Congress in enacting the CVAA. For example, are there video conferencing services that can be accessed from a wide range of user equipment, software, and device operating systems? How do consumers gain access to video conferencing services today? Are telecommunications services, interconnected and non-interconnected VoIP, and electronic messaging services included in some video conferencing services? Are these ACS components of video conferencing services generally accessible and usable? We also invite comment on any other developments that the Commission should consider in resolving this issue. While the *ACS FNPRM* proposed three possible definitions for the word “interoperable,” commenters may suggest additional alternatives or other types of input on how to interpret that word.

Ex Parte Rules. This proceeding is a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³² Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies) in the docket(s). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for this proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

Filing Requirements. All filings responsive to this Public Notice must reference CG Docket No. 10-213 and GN Docket No. 21-140. Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47

²⁹ *Id.* at 6.

³⁰ CTIA Comments, GN Docket No. 21-140, at 18-19 (rec. June 7, 2021).

³¹ AARO Comments, GN Docket No. 21-140, at 13 (rec. June 7, 2021) (quoting 47 U.S.C. §§ 153(27)).

³² *ACS FNPRM*, 26 FCC Rcd at 14693, para. 318; 47 CFR § 1.1200 *et seq.*

CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://apps.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
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Availability of Documents. Comments, reply comments, and *ex parte* submissions will be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

Additional Information. For additional information, contact Darryl Cooper, Attorney-Advisor, Disability Rights Office, Consumer and Governmental Affairs Bureau, at Darryl.Cooper@fcc.gov or (202) 418-7131.

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